

**REGIONAL WATER DISTRICT  
MEETING MINUTES  
November 6, 2003**

A meeting of the Water District Commission was held on Thursday, November 6, 2003 at Nashua Regional Planning Commission Meeting Room. Present were Chairperson, Marilyn Peterman (Amherst), George Woodbury (Hollis), Kevin Waterhouse (Windham), Jay Minkarah (Merrimack), Andrew Singelakis (Nashua RPC), Brian McCarthy (Nashua), Jean-Guy Bergeron (Pelham), Nancy Amato for Cynthia Herman (Milford), Ray Peeples (Litchfield) and Keith Hickey (Town Manager-Bedford)

Guest: Barbara Pressley, Atty Steve Judge, Atty Eugene Van Loan

Chairperson Peterman called the meeting to order at 6:45 p.m.

Chairperson Peterman stated the critical thing to talk about is the supermajority on the board. Article 6 letter j) Quorum and Voting. One of the items left is open letter j) 1 e) *the decision to enter into a new bulk water contract involving a commitment for the sale of more than \_\_\_\_ gallons per day.* Chairperson Peterman stated that Ken Massey e-mailed her with an amount of 50,000 gallons per day. Jay Minkarah stated statewide cut off for big user is 100,000 gallons.

Jay Minkarah stated this wouldn't be an expansion of the services because that would be in letter c) *the addition of a new or the expansion of an existing District Service Area.* Atty Judge stated that letter c) is also expansion.

Jay Minkarah asked is adding something that wasn't within the service area is that considered an expansion? Atty Judge yes, as we now have it defined. Jay responded if the service area means only those existing, then the BOD would have to approve every hook-up. George Woodbury responded that the way the language is written any new hook-up has to be approved by the BOD and that simply cannot be. Atty Judge responded 1% of volume or connections. Jay stated while we are preparing a resource plan, we certainly do not want every hook-up going to the BOD. Atty Judge stated we defined service area, is there a different definition? Can you give me some direction here.

Chairperson Peterman stated on page 3 of the definitions of service area and tying this into page 8-letter j) Quorum and Voting, 1 letter c) *The addition of a new or the expansion of an existing District Service Area,* what we are saying is a supermajority and #2 for an expansion of existing service area and tying it back to the definition does that make sense.

George Woodbury responded as long as it is within the bounds provided it doesn't exceed the limit.

Ray Peeples stated the 50,000 gallons a day seems small. The high school alone uses that for irrigating the fields. Jay stated his major concern is about the service area, no matter how large the demands.

Brian McCarthy stated we have to define the service area, we need to define where the pipes are and there is no crisp set of definitions. We need to make sure there is an adequate water supply for the existing sources and we need to keep up with the maintenance. At the last meeting we were revising the governing issues along with the attorney's, and I still am concerned as to what is in the resource plan and the capital improvement plan (CIP). We need to make sure our infrastructures are maintained. I'm fine with the BOD concept and with the exception of preserving the infrastructure and quality that you will need a 2/3 majority vote, but with regards to expansion, I don't want to see it in the initial resource plan.

Chairperson Peterman stated by the time we adopt the resource plan and the CIP that realistically is a 2-year time frame. In the meantime, we need to set up some guidelines.

Jay Minkarah stated what is being told by the language as it is written now is that every new connection would need a BOD 2/3 vote. Brian asked if it is a proposed 1% limitation on connections or consumption. Jay stated that over the 1% will require a 2/3 vote. Brian stated we understand the stream of building permits, I am of the opinion we need a resource plan in place. If we add 50 residential connections that shouldn't be enough to bust the bank.

Chairperson Peterman stated that in Amherst and we have 2 or 3 subdivisions that are planning on drilling. She stated the developer is drilling the well and the developer is turning it over to Pennichuck to manage. Atty Judge responded, are you talking about a brand new development with new wells, what would the developer do now?

Chairperson Peterman stated they go to Pennichuck and ask if Pennichuck will take over the system after the well is drilled and Rt 122 will be directly hooked up. It is already approved and on the table. If it wasn't already approved it would have to go to the table for a supermajority. Chairperson Peterman asked then what should this language say?

George Woodbury responded it should say 2/3 vote of the board would determine how that is done. Jay stated, but it becomes a critical issue whether expansion of the service area is within the area. We need to have a resource plan that states the inside and outside and that area needs a supermajority vote.

Atty Judge said that in letter c) put in the definition of the resource plan and have it define a new or the expansion of an existing territory and you should be okay 2 years from now.

Brian McCarthy asked if the language in the definition regarding compliance is in the Charter? Chairperson Peterman stated it is in another section. Jay stated it also makes sense to spell out when the resource plan needs to complete. George Woodbury stated it is not necessary to have in the document today, but we may need to address it at some point.

Chairperson Peterman stated letter c) would go into the definition, and in another section not yet written for the compliance. Letter a) stays there and now we are talking about letter e) blank# gallons and Ken Massey suggestion was plugging in 50,000.

Chairperson Peterman asked if putting a # in was too restrictive. Brian McCarthy responded what if we put in bulk water and what will be the long-term effect. We kind of cover it in letter j) 1 we can eliminate c. In addition to j) 1, Jay stated hold out and think about maybe adding a #3. How it will affect existing service areas.

Chairperson Peterman stated 2 letter a) *adoption of the District's CIP and any amendments thereof; b) issuance of bonds and c) any changes of rates.*

Ray Peoples responded, who is running the District each town or the BOD. We need to be consistent and coherent with CIP and the resource plan. The maintenance of the infrastructure and expansion will only be with the exception of an emergency. The exceptions are the things that will be raised by the BOD.

Brian McCarthy stated that on page 6 the BOD shall consist of one representative from each Member of the District, and it is the municipalities that are running the District.

Chairperson Peterman stated the next item is the voting or structure area that we need to review on page 6 with BOD and ending with Article 7 the CEO and operations group. Atty Judge stated that the CEO has a vote now on page 6 Article 6 letter a), but he cannot enter into contracts. CEO is only allowed on certain committees. The Operations Group is modified slightly on page 7 so the Charter does not prohibit a contract with a third party. They are not employees of the company and specific articles to do that are on page 10.

Andrew Singelakis asked if the CEO will establish what is voted on and if a rate issue can come in through the CEO or the Operations Group and then be voted on by the board, or am I correct in saying the board is not establishing the rates. Atty Judge stated they would get a recommendation.

Ray Peoples stated we are a District that is all-together. I as a BOD member needs to be concerned with what is happening in Nashua and also Pittsfield. We need to develop some level of trust.

Chairperson Peterman asked the attorney's if there are other sections that they need to address.

Atty Judge stated we added Article 23 on page 23. Request in the Conflict that we make it work in one direction only. If there is a conflict the District can decide to get out of the agreement, but the individual does not. Also in the Operations Group you have a report that originally went to DES, we eliminated DES as being identified. On page 20, Article 18 f) provision required report to DES that requirement has been taken out, but if the Operations Group feels it is important to put it in DES hand they can, but they are not required.

Atty Van Loan stated that in the Conflict of Interest section on page 17, we added the last section g) to make it clear that someone who is a director and also a customer that it is not a conflict of interest. Brian McCarthy asked if there are any other pitfalls in that section? Atty Judge stated it is close to the State.

Chairperson Peterman asked Barbara Pressley we want to keep it as strict as you can. Barbara Pressley stated when there is a conflict of interest, and how you deal with it and I don't know how specific you want to get into that. Brian McCarthy responded let the board set the policy.

Chairperson Peterman asked does there need to be something in there that initially states the procedures and policy will be set or should we leave up to the operations board? Brian stated it is in there as the draft of the BOD to establish bylaws.

Jay Minkarah asked the attorney's do we need a provision for removal for BOD?

Atty Van Loan responded who is on the BOD is determined by the Legislative Body. Town officers are selected either by election or appointment. Chairperson Peterman stated she agreed that the governing body elected officials and the legislative body is considered the Town meeting. In Article 6 a) we need to change legislative body to governing body.

Kevin Waterhouse stated that Windham he would have the Charter approved by his board, and then a public meeting to approve the Charter before the Charter going back to the voters.

Jay Minkarah stated in reading the article questioned the approval of the governing body and the legislative body to acquire Pennichuck? Atty Van Loan stated now that the statute has been passed you can form a Regional Water District.

Chairperson Peterman stated this language goes on the ballot in March. We got the approval last year to go forward because it says there is no impact on the tax rate, it doesn't affect all of the citizens that are voting. We have to make it clear that we need an affirmative vote. It is only a majority vote. It is not a bond so we don't need 60%. It is just another rubber stamp.

Jay Minkarah stated he would need language in January to take to his board. Chairperson Peterman responded that Karen White was in the process of looking for the language.

Chairperson Peterman asked the committee, if we have a Charter vote next week, we can call a public hearing and send out invitations to the Boards of Selectmen, PBs, CC's, Pennichuck Watershed etc., stating they are not required to attend, but if they are interested we would have one meeting for any interested parties. We could possibly do this sometime in early December.

Atty Van Loan responded, not to complicate things, but an issue of concern is the timeline on when things can happen. If you read the statute it contemplates what would be a normal situation. You can't vote to buy Pennichuck until you know what the deal is. You need a 2/3 vote of the governing bodies and there is no deal you haven't negotiated with Pennichuck.

Atty Van Loan stated the best route is to get back to the legislature and this should be a non-controversial one issue and change the language. The problem is if you have to read the statute with our original language, it states you cannot do anything until you have a deal with Pennichuck.

Chairperson Peterman asked if the District can be formed and then the District can agree to the purchase of Pennichuck. Jay Minkarah stated we still need 2/3 of the vote. Atty Van Loan responded 2/3 of the directors of the District and when we form the District with the municipalities that don't need a town meeting as long as they are the majority of the District. If everyone gets in and a majority means town meeting that is a problem.

Jay Minkarah stated we can all put in a warrant article that is constructed and we can amend it in the SB 2 towns and maybe there is a hope that something will be more definitive by March or April.

Brian McCarthy asked the attorney's other than the price why can't we construct a warrant article without a price? Atty Van Loan stated it is what the statute states. What does this statute mean is you have to have a deal on the table.

George Woodbury responded if the language is to acquire Pennichuck using bonds that are secured by the District and paid through the rates, I don't know why you cannot put the language in it and have them approve it.

Chairperson Peterman responded so we need to re-word the legislation to give us the authority. Jay Minkarah stated the other option is to construct another warrant. Brian McCarthy asked if we are going to change the wording, we should probably talk to Jay Gonzales about what his concerns are too.

Jay Minkarah asked if we could wait until 2005 to acquire Pennichuck. We can form the District, then construct bylaws and get a resource plan in place. Chairperson Peterman stated when the Charter is agreed upon and the District is formed then that can happen without another vote.

Atty Van Loan stated it depends upon, what the timing is, but if the scenario were that Nashua would buy Pennichuck and then the District would buy it from Nashua, then you are talking about 2 bond issues and that sounds like wasted money. Brian McCarthy stated that Nashua had a discussion on transferring bonds with similar rating and they were told they can get the bonds written to the District so they are transferable. Atty Van Loan stated he would look into the rewording of the statute.

Chairperson Peterman asked the committee if there were any other dates that need to be set-up for the remaining Charter tasks. We are meeting next week here in Nashua and there is a good chance we will be meeting November 20<sup>th</sup> to tie up loose ends.

APPROVAL OF MINUTES – October 23, 2003

**MOTION to approve October 23, 2003 Minutes by Kevin Waterhouse. Seconded by Brian McCarthy. Motions passed.**

Chairperson Peterman stated the approval of October 30, 2003 minutes will be done at the next meeting.

Kevin Waterhouse asked what the venue would be to hold a meeting in December. Chairperson Peterman responded a sizeable central location. I would suggest maybe Souhegan High School or Nashua High. School. Brian McCarthy stated he would check and see if the high school is available for December 10<sup>th</sup>.

**MOTION to adjourn by Kevin Waterhouse. Seconded by Jay Minkarah. The meeting was adjourned at 8:35 p.m.**

Submitted by: Jane O'Brien  
#16538